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§ 12.40 Public examination.

Registration statements shall be available for public examination at the offices of the Registration Unit, Department of Justice, Washington, D.C., from 10:00 a.m. to 4:00 p.m. on each official business day, except to the extent that the Attorney General having due regard for national security and public interest may withdraw such statements from public examination.

[Order No. 524-73. 33 FR 18235, July 9, 1973]

§ 12.41 Photocopies.

(a) Photocopies of registration statements filed in accordance with section 2 of the act are available to the public upon payment of fifty cents per photocopy of each page, whether several copies of a single original page or one or more copies of several original pages are ordered.

(b) Estimates as to prices for photocopies and the time required for their preparation will be furnished upon request addressed to the Registration Unit, Internal Security Section, Criminal Division, Department of Justice, Washington, D.C. 20530.

(c) Payment shall accompany the order for photocopies and shall be made in cash, or by United States money order, or by certified bank check payable to the Treasurer of the United States. Postage stamps will not be accepted.

[21 FR 5928, Aug. 8, 1956; Order No. 524-73, 38 FR 18235, July 9, 1973]

§ 12.70 Partial compliance not deemed compliance.

The fact that a registration statement has been filed shall not necessarily be deemed a full compliance with the act on the part of the registrant; nor shall it preclude prosecution, as provided for in the act, for willful failure to file a registration statement, or for a willfully false statement of a material fact therein, or for the willful omission of a material fact required to be stated therein.

**PART 14—ADMINISTRATIVE CLAIMS
UNDER FEDERAL TORT CLAIMS ACT**

Sec.

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AUTHORITY: Sec. 1, 80 Stat. 306; 28 U.S.C. 2672.

SOURCE: Order No. 371-66, 31 FR 16616, Dec. 29, 1966, unless otherwise noted.

§ 14.1 Scope of regulations.

These regulations shall apply only to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967. The terms "Federal agency" and "agency" as used in this part include the executive departments, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but do not include any contractor with the United States.

§ 14.2 Administrative claim; when presented.

(a) For purposes of the provisions of section 2672 of Title 28, United States Code, a claim shall be deemed to have been presented when a Federal agency receives from a claimant, his duly authorized agent or legal representative, an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to or loss of property, personal injury, or death alleged to have occurred by reason of the incident. If a claim is presented to the wrong Federal agency, that agency shall transfer it forthwith to the appropriate agency.

(b) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final agency action or prior to the exercise of the claimant's

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option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or his duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, the agency shall have six months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675 (a) shall not accrue until six months after the filing of an amendment.

[Order No. 371-66, 31 FR 16616, Dec. 29, 1966, as amended by Order 422-69, 35 FR 314, Jan. 8, 1970]

§ 14.3 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property, his duly authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 14.4 Administrative claims; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence

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showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the agency or another Federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that he has, upon request, furnished the report referred to in the first sentence of this subpara-

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graph and has made available to the agency the physician's reports previously made of the physical condition which is the basis of his claim.

(2) Itemized bills for medical and hospital expenses, and itemized receipts of payment for such expenses.

(3) If the prognosis is such that there is a necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of earnings from employment, a statement of the time lost from employment, whether he is a full or part-time employee, and his wages or salary actually received.

(5) If a claim is made for loss of income and the claimant is employed, documentary evidence of the amounts of earnings received.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of real or personal property, the claimant is required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with itemized list of property.

(3) An itemized record of necessary repairs and ten estimates of the cost of such repairs.

(4) A statement listing the date of purchase, purchase price, and value, where repair is required.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or the damages claimed.

§ 14.5 Review by legal

The authority to compromise, and settle, claims under the provisions of section 28, United States Code, shall be exercised by the amount of a proposed settlement, or award, shall be exercised by the

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graph and has made or agrees to make available to the agency any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of his claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amounts of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price and salvage value, where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 14.5 Review by legal officers.

The authority to adjust, determine, compromise, and settle a claim under the provisions of section 2672 of Title 28, United States Code, shall, if the amount of a proposed compromise, settlement, or award exceeds \$1,000, be exercised by the head of an agency

or his designee only after review by a legal officer of the agency.

§ 14.6 Limitation on agency authority.

(a) An award, compromise, or settlement of a claim by an agency under the provisions of section 2672 of Title 28, United States Code, in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee. For the purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, ~~determined, compromised,~~ or settled by an agency under the provisions of section 2672 of Title 28, United States Code, only after consultation with the Department of Justice when, in the opinion of the agency:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and the agency is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled by an agency under the provisions of section 2672 of Title 28, United States Code, only after consultation with the Department of Justice when the agency is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 14.7 Referral to Department of Justice.

When Department of Justice approval or consultation is required under § 14.6, or the advice of the Department of Justice is otherwise to be requested, the referral or request of the Federal agency shall be directed to the Assistant Attorney General, Civil Division, Department of Justice, in

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writing and shall contain (a) a short and concise statement of the facts and of the reasons for the referral or request, (b) copies of relevant portions of the agency's claim file, and (c) a statement of the recommendations or views of the agency. Such referrals or requests to the Department of Justice may be made at any time after presentation of a claim to the Federal agency.

§ 14.8 Investigation and examination.

A Federal agency may request any other Federal agency to investigate a claim filed under section 2672, Title 28, United States Code, or to conduct a physical examination of a claimant and provide a report of the physical examination. Compliance with such requests may be conditioned by a Federal agency upon reimbursement by the requesting agency of the expense of investigation or examination where reimbursement is authorized, as well as where it is required, by statute or regulation.

§ 14.9 Final denial of claim.

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the agency action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

(b) Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b), a claimant, his duly authorized agent, or legal representative, may file a written request with the agency for reconsideration of a final denial of a claim under paragraph (a) of this section. Upon the timely filing of a request for reconsideration the agency shall have 6 months from the date of filing in which to make a final disposition of the claim and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of a request for reconsideration. Final agency action on a request

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for reconsideration shall be effected in accordance with the provisions of paragraph (a).

[Order No. 371-66, 31 FR 16616, Dec. 29, 1966, as amended by Order 422-69, 35 FR 315, Jan. 8, 1970]

§ 14.10 Action on approved claims.

(a) Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to the provisions of section 2672 of Title 28, United States Code, shall be paid by the head of the Federal agency concerned out of the appropriations available to that agency. Payment of an award, compromise, or settlement in excess of \$2,500 and not more than \$100,000 shall be obtained by the agency by forwarding Standard Form 1145 to the Claims Division, General Accounting Office. Payment of an award, compromise, or settlement in excess of \$100,000 shall be obtained by the agency by forwarding Standard Form 1145 to the Bureau of Accounts, Department of the Treasury, which will be responsible for transmitting the award, compromise, or settlement to the Bureau of the Budget for inclusion in a deficiency appropriation bill. When an award is in excess of \$25,000, Standard Form 1145 must be accompanied by evidence that the award, compromise, or settlement has been approved by the Attorney General or his designee. When the use of Standard Form 1145 is required, it shall be executed by the claimant or it shall be accompanied by either a claims settlement agreement or a Standard Form 95 executed by the claimant. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his attorney as payees; the check shall be delivered to the attorney, whose address shall appear on the voucher.

(b) Acceptance by the claimant, his agent, or legal representative, of any award, compromise or settlement made pursuant to the provisions of section 2672 or 2677 of Title 28, United States Code, shall be final and conclusive on the claimant, his agent or legal representative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of

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any claim against the Government and against any employee of the Government whose act or omission gave rise to the claim, by the same subject matter.

§ 14.11 Supplementing

Each agency is authorized to make regulations and establish procedures consistent with the requirements of this part.

PART 15—DEFENSE SUITS AGAINST FEDERAL EMPLOYEES, AND CERTIFICATION OF CERTAIN DEFENSE PROGRAM PARTICIPANTS TO THE NATIONAL SYSTEMIZATION PROGRAM

Sec. 15.1 Expeditious delivery of pleadings.

15.2 Providing data bearing on employment or personnel status.

15.3 Removal and deferment.

Appendix—Delegation of Authority to Certify Status of Participants Under the National Systemization Program of 1964

AUTHORITY: 5 U.S.C. 552, 22 U.S.C. 817, 28 U.S.C. 2401, 4116, and 42 U.S.C. 2458a.

CROSS REFERENCE: For information, Civil Division, see of this Chapter.

§ 15.1 Expeditious delivery of pleadings.

(a) Any Federal employee against whom a civil action is brought for damages for personal injury or death, or for damage to or destruction of a motor vehicle in the course of employment or on account of the employee's performance of duty, or for treatment, or investigation, or scope of his office or the Public Health Service, or the Administration of Medicine and Surgery

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any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

§ 14.11 Supplementing regulations.

Each agency is authorized to issue regulations and establish procedures consistent with the regulations in this part.

PART 15—DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES, AND CERTIFICATION AND DEFENSE OF CERTAIN SUITS AGAINST PROGRAM PARTICIPANTS UNDER THE NATIONAL SWINE FLU IMMUNIZATION PROGRAM OF 1976

Sec.

15.1 Expeditious delivery of process and pleadings.

15.2 Providing data bearing upon scope of employment or program participant status.

15.3 Removal and defense of suits.

Appendix—Delegation of Authority to Certify Status of Program Participants Under the National Swine Flu Immunization Program of 1976.

AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 1089, 22 U.S.C. 817, 28 U.S.C. 509, 510 and 2679, 38 U.S.C. 4116, and 42 U.S.C. 233, 247b and 2458a.

CROSS REFERENCE: For Organization Statement, Civil Division, see Subpart I of Part O of this Chapter.

§ 15.1 Expeditious delivery of process and pleadings.

(a) Any Federal employee against whom a civil action or proceeding is brought for damages to property, or for personal injury or death, on account of the employee's operation of a motor vehicle in the scope of his office or employment with the Federal Government or on account of the employee's performance of medical care, treatment, or investigation in the scope of his office or employment with the Public Health Service or the Veterans Administration Department of Medicine and Surgery, the Depart-

ment of State (including the Agency for International Development), the Armed Forces, the Department of Defense, the Central Intelligence Agency, or the National Aeronautics and Space Administration shall promptly deliver all process and pleadings served upon the employee, or an attested true copy thereof, to the employee's immediate superior or to whoever is designated by the head of the employee's department or agency to receive such papers. If the action is brought against an employee's estate this procedure shall apply to the employee's personal representative. In addition, upon the employee's receipt of such process or pleadings, or any prior information regarding the commencement of such a civil action or proceeding, he shall immediately so advise his superior or the designee thereof by telephone or telegraph. The superior or designee shall furnish the United States Attorney for the district embracing the place wherein the action or proceeding is brought and the Chief of the Torts Section, Civil Division, Department of Justice, information concerning the commencement of such action or proceeding, and copies of all process and pleadings therein.

(b) Any program participant as that term is defined in 42 U.S.C. 247b (k) (2) (B) against whom a civil action or proceeding is brought for damages for personal injury or wrongful death on account of the administration of swine flu vaccine under the National Swine Flu Immunization Program of 1976 (or the personal representative or successor of such program participant, if the action is brought against the estate or successor of such program participant) shall promptly deliver all process and pleadings served upon such program participant, or an attested true copy thereof, to the Assistant Section Chief for Swine Flu Litigation, Torts Section, Civil Division, U.S. Department of Justice, Washington, D.C. 20530, and to the Department Claims Officer, Office of the General Counsel, Department of Health, Education and Welfare, Washington, D.C. 20201. The Assistant Section Chief for Swine Flu Litigation shall promptly furnish copies of the papers to the United States attorney for the district em-